

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**LARRY CROSS,**

**Plaintiff,**

**v.**

**6:04-CV-501  
(FJS/GHL)**

**VILLAGE OF COOPERSTOWN,  
OTSEGO COUNTY and DAVID WEST,**

**Defendants.**

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**ATTORNEYS**

**OF COUNSEL**

**LARRY CROSS**

Whitesboro, New York 13492  
Plaintiff *pro se*

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SUGNET, P.C.**

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Cooperstown

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**KONSTANTY LAW OFFICE**

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County and David West

**JAMES E. KONSTANTY, ESQ.**

**SCULLIN, Chief Judge**

**ORDER**

Plaintiff filed his complaint in this 42 U.S.C. § 1983 action on May 6, 2004. *See* Dkt. No. 1. As the Court's docket indicates, since its inception, this action has traveled a tortured procedural path. The Court will briefly summarize some of the events in this case which bear

upon this Order.

On **November 16, 2004**, Plaintiff requested that the Clerk of the Court enter a default as to Defendant Village of Cooperstown ("Defendant Village"). *See* Dkt. No. 12. On **December 23, 2004**, Defendant Village filed a motion to vacate the entry of default and for an order granting it permission to file and serve an answer to Plaintiff's complaint. *See* Dkt. No. 21. Plaintiff opposed this motion. By Order dated March 14, 2005, Magistrate Judge Lowe granted Defendant Village's motion. *See* Dkt. No. 29. On **May 2, 2005**, Plaintiff filed a Notice of Appeal regarding Magistrate Judge Lowe's **March 14, 2005** Order. *See* Dkt. No. 38. Plaintiff's appeal is currently pending before the Second Circuit Court of Appeals.<sup>1</sup> On **June 27, 2005**, Defendants Otsego County and David West filed a motion to dismiss Plaintiff's complaint. *See* Dkt. No. 53. Three days later, on **June 30, 2005**, Defendant Village filed its own motion to dismiss Plaintiff's complaint. *See* Dkt. No. 55. Finally, at some point after he filed his Notice of Appeal, Plaintiff filed a motion in the Second Circuit in which he "request[ed] a 120 day stay/injunction due to medical illness, suspending and preventing further action by any party for 120 days, and pending completion appeal [sic.]" On **July 8, 2005**, Senior Circuit Judge Ralph K. Winter issued an Order granting Plaintiff's motion and ordering that "[t]he scheduling order shall be held [in] abeyance pending resolution of the motion to proceed *in forma pauperis*."

In light of all of these facts and, most particularly, the fact that Plaintiff's appeal of Magistrate Judge Lowe's March 14, 2005 Order remains pending before the Second Circuit, the Court hereby

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<sup>1</sup> The Second Circuit has assigned Plaintiff's appeal the Docket Number 05-2180-CV.

**ORDERS** that this action is **STAYED** until the Second Circuit issues its mandate regarding Plaintiff's pending appeal; and the Court further

**ORDERS** that, in light of this stay, the parties **shall not** file any more papers in this action until the Court lifts the stay ordered herein; and the Court further

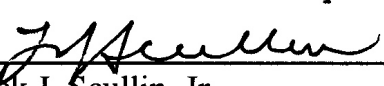
**ORDERS** that Defendants' motions to dismiss Plaintiff's complaint are **DENIED WITHOUT PREJUDICE AS MOOT AND WITH LEAVE TO RENEW** after the Court lifts the stay ordered herein; and the Court further

**ORDERS** that Plaintiff's motion for an extension of time to file a response to Defendants' pending motions to dismiss is **DENIED WITHOUT PREJUDICE AS MOOT AND WITH LEAVE TO RENEW IF NECESSARY** after the Court lifts the stay ordered herein; and the Court further

**ORDERS** that Plaintiff **shall notify** the Court and Defendants **in writing within ten (10) days after he receives** the Second Circuit's decision regarding his pending appeal of the results of that appeal.

**IT IS SO ORDERED.**

Dated: August 3, 2005  
Syracuse, New York

  
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Frederick J. Scullin, Jr.  
Chief United States District Court Judge